CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 20, 2002

H.R. 3669
Employee Retirement Savings Bill of Rights

As ordered reported by the House Committee on Ways and Means on March 14, 2002

SUMMARY

H.R. 3669 would impose an excise tax on pension plans if participants are not given certain information, and if the plans do not allow participants greater diversification of assets in contribution plans than is generally required under current law. The bill would exclude incentive stock options and employee stock purchase plan stock options from Federal Insurance Contribution Act (FICA) and Federal Unemployment Tax Act (FUTA) wages if exercised after the date of enactment. It also would make numerous changes to the Internal Revenue Code (IRC) and the Employee Retirement Income Security Act of 1974 (ERISA) that would affect the taxation and operation of private pension plans.

CBO and the Joint Committee on Taxation (JCT) estimate that the bill would increase federal revenues by $994 million in 2002, but reduce federal revenues by $10.3 billion over the 2002-2007 period and by $24.4 billion over the 2002-2012 period. CBO estimates that the bill would increase direct spending by $6 million in 2003, by $46 million over the 2003-2007 period, and by $104 million over the 2003-2012 period. Since this bill would affect direct spending and revenues, pay-as-you-go procedures would apply.

JCT has determined that the tax provisions of H.R. 3369 contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO has determined that the non-tax provisions of the bill contain no mandates and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3669 is shown in the following table. The costs of this legislation would fall within budget function 600 (income security).

	By Fiscal Year, in Millions of Dollars					
	2002	2003	2004	2005	2006	2007
CHANGES IN REVENUES						
Treatment of Qualified Retirement Planning Services	0	-13	–24	-25	-22	-23
Interest Rate Range for Additional Funding Requirements	994	994	-270	-593	-485	-327
Exclusion of Certain Stock Options from Wages	0	-1,771	-2,283	-2,086	-2,224	-2,165
Total Revenues	994	-790	-2,577	-2,704	-2,731	-2,515
CHANGES IN DIRECT SPENDING						
Reduced PBGC Flat-Rate Premiums	0	1	1	2	2	2
Reduced PBGC Variable Premiums	0	2	4	5	6	6
Payment of Interest on PBGC Premium Overpayment	0	3	3	3	3	3
Benefits Paid to Substantial Owners	0	*	*	*	*	*
Total Additional Outlays	0	6	8	10	11	11
TOTAL CHANGES						
Net Decrease in Budget Surplus	0	-796	-2,585	-2,714	-2,742	-2,526

SOURCES: CBO and Joint Committee on Taxation.

NOTES: Components may not sum to totals because of rounding.
*= Less than $500,000.

BASIS OF ESTIMATE

Revenues

All estimates of the revenue proposals in the bill were provided by JCT. The provision that would exclude certain stock options from wages would have the greatest effect on revenues if enacted, with a loss of revenue of $10.5 billion over the 2002-2007 period and $23.2 billion over the 2002-2012 period.

The JCT estimate emphasizes that the potential revenue effects from the proposal are uncertain. The JCT report (JCX-16-02) indicates that "due to the long-standing administrative position of the IRS with respect to the imposition of employment taxes on incentive stock options and employee stock purchase plans, the level of compliance that can be expected with the revised IRS position is unclear."

Direct Spending

Reduced Flat-Rate Premiums Paid to the PBGC. Under current law, defined benefit pension plans operated by a single employer pay two types of annual premiums to the Pension Benefit Guaranty Corporation (PBGC). All covered plans are subject to a flat-rate premium of $19 per participant. In addition, underfunded plans must also pay a variable premium that depends on the amount by which the plan's liabilities exceed its assets.

The bill would reduce the flat-rate premium from $19 to $5 per participant for plans established by employers with 100 or fewer employees during the first five years of the plan's operation. According to information obtained from the PBGC, approximately 7,500 plans would eventually qualify for this reduction. Those plans cover an average of about 10 participants each. CBO estimates that the change would reduce the PBGC's premium income, which is classified as an offsetting collection, by about $1 million in 2003 and by about $8 million over the 2003-2007 period.

Reduced Variable Premiums Paid to the PBGC. H.R. 3669 would make two changes affecting the variable-rate premium paid by underfunded plans. First, for all new plans that are underfunded, the bill would phase in the variable-rate premium. In the first year, plans would pay nothing. In the succeeding four years, they would pay 20 percent, 40 percent, 60 percent, and 80 percent, respectively, of the full amount. In the sixth and later years, they would pay the full variable-rate premium determined by their funding status. On the basis of information from the PBGC, CBO estimates that this change would affect the premiums of approximately 250 plans each year. It would reduce the PBGC's total premium receipts by about $19 million over the 2003-2007 period.

The bill would also reduce the variable-rate premium paid by all underfunded plans (not just new plans) established by employers with 25 or fewer employees. Under the bill, the variable-rate premium per participant paid by those plans would not exceed $5 multiplied by the number of participants in the plan. CBO estimates that approximately 2,500 plans would have their premium payments to the PBGC reduced by this provision beginning in 2003. As a result, premium receipts would decline by $1 million in 2004 and by $4 million over the 2004-2007 period.

Authorization for the PBGC to Pay Interest on Premium Overpayment Refunds. The legislation would authorize the PBGC to pay interest to plan sponsors on premium overpayments. Interest paid on overpayments would be calculated at the same rate as interest charged on premium underpayments. On average, PBGC receives $19 million per year in premium overpayments, charges an interest rate of 8 percent for underpayments, and experiences a two-year lag between the receipt of payments and the issuance of refunds. Based on this information, CBO estimates that direct spending would increase by $3 million annually.

Substantial Owner Benefits in Terminated Plans. H.R. 3669 would simplify the rules by which the PBGC pays benefits to substantial owners (those with an ownership interest of at least 10 percent) of terminated pension plans. Only about one-third of the plans taken over by the PBGC involve substantial owners, and the change in benefits paid to owner-employees under this provision would be less than $500,000 annually.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

	By Fiscal Year, in Millions of Dollars										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in receipts	994	-790	-2,577	-2,704	-2,731	-2,515	-2,866	-2,849	-2,800	-2,765	-2,845
Changes in outlays	0	6	8	10	11	11	11	11	12	12	12

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

JCT has determined that the tax provisions of H.R. 3669 contain no intergovernmental or private-sector mandates as defined in UMRA. CBO has determined that the non-tax provisions of the bill contain no mandates and would not affect the budgets of state, local, or tribal governments.

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